

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

MELISSA BURKYBILE,

*Plaintiff,*

vs.

ANDREW M. SAUL, COMMISSIONER  
OF SOCIAL SECURITY;

*Defendant.*

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SA-19-CV-00718-XR

**ORDER**

Before the court in the above-styled cause of action are Plaintiff's original motion to proceed *in forma pauperis* [#1] and Plaintiff's corrected motion to proceed *in forma pauperis*. This case was automatically referred to the undersigned upon filing, and the undersigned has authority to enter this order pursuant to 28 U.S.C. § 636(b)(1)(A). Plaintiff seeks leave to proceed in forma pauperis ("IFP") based on an inability to afford court fees and costs. Having considered Plaintiff's application and supporting affidavit, the Court is of the opinion the corrected motion should be granted and the original motion should be dismissed as moot.

All parties instituting any civil action, suit, or proceeding in a district court of the United States, except an application for a writ of habeas corpus, must pay a filing fee of \$350, as well as an administrative fee.<sup>1</sup> See 28 U.S.C. § 1914(a). Plaintiff's motion to proceed IFP includes income and asset information, which indicates that Plaintiff is unemployed but receives \$1,319.00 per month in VA benefits for her deceased husband. Plaintiff relies on support from her daughter and son-in-law, who live with her and pay half of her rent and monthly expenses,

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<sup>1</sup> The administrative fee, which is currently \$50, is waived for plaintiffs who are granted IFP status. See *District Court Miscellaneous Fee Schedule*, available at <http://www.uscourts.gov/services-forms/fees/district-court-miscellaneous-fee-schedule>.

and has no savings. This information demonstrates that Plaintiff does not have sufficient monthly resources available to pay the filing fee, and the Court will grant the motion to proceed IFP.

**IT IS THEREFORE ORDERED** that Plaintiff's corrected application to proceed *in forma pauperis* [#4] is **GRANTED**.

**IT IS FURTHER ORDERED** that Plaintiff's original application to proceed *in forma pauperis* [#1] is **DISMISSED AS MOOT**.

**IT IS FURTHER ORDERED** that Plaintiff's Complaint [#4-1] shall be filed by the Clerk without prepayment of fees, costs or the giving of security, and the Clerk shall, until further Order of this Court, waive the collection of any other fees or costs from Plaintiff.

**IT IS FURTHER ORDERED** that, if not already accomplished, within **ten (10) days** of the date of this Order, Plaintiff shall **either**

- Submit to the Clerk's Office a fully completed United States Marshal Service Form 285, including fully complete addresses, for each Defendant required to be served and the United States Marshal's Service shall serve each defendant with a copy of the Complaint and a copy of this order by certified mail, return receipt requested; or
- Through counsel, request issuance of summons from the Clerk and serve each Defendant required to be served with a copy of the summons, complaint, and a copy of this Order by certified mail, return receipt requested, if possible. *See* Fed. R. Civ. P. 4(e)(1) (permitting service pursuant to state law); Tex. R. Civ. P. 106(a)(2) (permitting service by certified or registered mail by a person authorized to serve by Rule 103); Tex. R. Civ. P. 103 (permitting service by certified or registered mail by sheriff, constable, clerk, or any person authorized by law).

**IT IS SO ORDERED.**

SIGNED this 25th day of June, 2019.



ELIZABETH S. ("BETSY") CHESTNEY  
UNITED STATES MAGISTRATE JUDGE